

REMARKS

Claims 1-2, 6-11, and 13-23 are pending. Claims 1, 6, 11, 14, and 16 are amended. Claims 20-23 are added. Claims 18-19 are cancelled. Applicant reserves the right to pursue original and other claims in this and any other application.

Claim 16 stands rejected under 35 U.S.C. § 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. More specifically, the July 25 office action asserts there is “insufficient antecedent basis for [‘the area’] limitation in [claim 16].” Claim 16 is amended to remove “the area” limitation. Accordingly, the rejection should be withdrawn and the claim allowed.

Claims 1-2, 6-7, 11, and 13-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Grzywa (US 4,754,883) (“Grzywa”) in view of Goldfarb (US 3,623,730) (“Goldfarb”). The rejection is respectfully traversed.

Claim 1 recites, *inter alia*, “a tray for use in a patient care facility comprising: a storage surface formed with a plurality of openings adapted to store a plurality of a patient’s personal items, said openings comprising a first substantially rectangular shaped opening ... said rectangular opening having three substantially planar sides extending down from said storage surface and surrounding a rectangular lower surface formed below said storage surface, wherein one side of said lower surface is joined with a side of said rectangular opening in said storage surface such that said lower surface is positioned at a non-parallel angle with respect to said storage surface....”

The July office action states, “It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the rectangular opening design of Goldfarb for the rectangular opening of Grzywa for the purpose of facilitating easy

store [sic] and removal of an object/item from the opening.” However, the office action fails to provide any factual basis therefore or to acknowledge or address the widely varying art fields of the Grzywa and Goldfarb patents.

Grzywa discloses an “automobile trunk organizer” with “cylindrical compartments ... sized and shaped to hold oil, transmission fluid and brake fluid containers and a funnel and ... rectangular compartments ... sized and shaped to hold coolant, windshield solvent, tools and rags and bulbs and fuses.” (Grzywa, Column 4, Lines 15-19) Meanwhile, Goldfarb discloses a “card game apparatus” comprising “nine individual compartments ... wherein the bottom surface of each compartment slopes in a generally upward direction toward a forward end of the playing tray which preferably will face the players” to “facilitate[] removal of the top card from a stack of cards without disturbing the remaining cards....” (Goldfarb, Column 1, Lines 71-72 and Column 2, Lines 4-9)

“In holding an invention obvious in view of a combination of references, there must be some suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to select the references and combine them in the way that would produce the claimed invention.” Karsten Mfg. Corp. v. Cleveland Golf Co., 242 F.3d 1376, 1385 (Fed. Cir. 2001). Rejections under § 103(a) based on a combination of references from unrelated art fields are particularly suspect. “The combination of elements from non-analogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a prima facie case of obviousness. There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That knowledge can not come from the applicant's invention itself.” In re Hans Oetiker, 977 F.2d 1443, 1447 (Fed. Cir. 1992).

“[P]articular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed.” In re Werner Kotzab, 217 F.3d 1365, 1371 (Fed. Cir. 2000). The office action fails to identify any such particular reason a person of ordinary skill in the art of storing a patient’s personal items, as recited in presently amended claim 1, would select and combine references from the wholly unrelated fields of automotive maintenance and card game design. For at least this reason, the rejection of claim 1 should be withdrawn and claim 1 allowed.

Claim 2 depends from claim 1 and is allowable along with claim 1. Accordingly, the rejection of claim 2 should be withdrawn and claim 2 allowed.

In rejecting claims 6 and 11, the office action merely refers to the rejection of claim 1. As stated above, the rejection of claim 1 should be withdrawn and claim 1 allowed. Therefore, for at least that reason, the rejection of claims 6 and 11 should also be withdrawn and the claims allowed.

In rejecting claim 7, the office action merely refers to the rejection of claim 2. As stated above, the rejection of claim 2 should be withdrawn and claim 2 allowed. Therefore, for at least that reason, the rejection of claim 7 should also be withdrawn and claim 7 allowed.

In rejecting claim 8, the office action incorrectly states, “Grzywa discloses the tray comprise [sic] personal item storage containers (36a-d) designed to fit securely within the compartments recessed onto the tray’s planer surface.” Compartments 36a-d are not “personal item storage containers” but rather “cylindrical compartments ... sized and shaped to hold oil, transmission fluid and brake fluid containers and a funnel....” (Grzywa, Column 4, Lines 15-17) None of the these automotive

maintenance fluids and tools can reasonably be described as a "personal item," such as the "denture cups" recited in claim 8.

Furthermore, the office action's rejection of claim 8 as "obvious" is merely conclusory, stating, "It would have been obvious to a person having ordinary skill in the art at the time the invention was made to include a denture cup in compartments [sic] (36a), eyeglasses case in compartment (38a) and a hearing aid compartment (36c) for the purpose of personal item usage." However, the office action fails to provide any factual basis therefore. For at least these reasons, the rejection of claim 8 should be withdrawn and the claim allowed.

In rejecting claim 9, the office action refers to the rejection of claim 1. As stated above, the rejection of claim 1 should be withdrawn and claim 1 allowed. Furthermore, the office action's rejection of claim 9 as "obvious" is merely conclusory, stating, "It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use a set of weight[s] that is evenly distributed in the bottom edge (16) for the purpose of keeping the tray stands upon its base." However, the office action fails to provide any factual basis therefore. For at least these reasons, the rejection of claim 9 should be withdrawn and claim 9 allowed.

In rejecting claim 10, the office action merely refers to the rejection of claim 8. As stated above, the rejection of claim 8 should be withdrawn and claim 8 allowed. Therefore, for at least that reason, the rejection of claim 10 should also be withdrawn and claim 10 allowed.

Claim 13 depends from claim 11 and is allowable along with claim 11. Accordingly, the rejection of claim 13 should be withdrawn and claim 13 allowed.

Claim 14 is allowable for at least the reasons stated above with respect to claim 1. Therefore, for at least those reasons, the rejection of claim 14 should be withdrawn and claim 14 allowed.

Claims 15-17 depend from claim 14 and are allowable along with claim 14. Accordingly, the rejection of claims 15-17 should be withdrawn and claims 15-17 allowed.

If the Office persists in its rejection of any of claims 1-2, 6-7, 11, or 13-17 under 35 U.S.C. § 103(a), Applicant respectfully requests an enumeration of the specific factual bases therefore.

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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